December 12, 1986

MEMORANDUM

SUBJECT:        Truck or Rail Shipment of Hazardous Wastes to a POTW

FROM:           Marcia Williams, Director
                Office of Solid Waste

TO:             David A. Stringham, Chief
                Solid Waste Branch, Region V


        This memo is a follow-up response to your September 8, 1986, request for clarification of the POTW exclusion in 40 CFR §261.4 (a) (1) (ii).

        As noted in my memorandum to you of September 25, 1986, the POTW exclusion is limited to the circumstances and conditions of §261.4 (a) (1) (ii). Thus, a material is not a solid waste if it is "Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment (emphasis added)." If the material does not pass through a sewer system prior to arriving at a POTW, it is deemed to be a solid waste and, if appropriate, a hazardous waste. Consequently, POTWs that manage wastes which have not passed through the sewer system and mixed with domestic sewage would be subject to all applicable hazardous waste regulations. Under §270.60 (c), the POTW would be deemed to have a RCRA permit, provided they comply with the RCRA requirements identified in that Section. In addition, the POTW would be required to manage the residues of the treatment process as hazardous waste if the sludge either: 1) exhibits a characteristic of hazardous waste, or 2) was the result of treatment of a listed hazardous waste.

        We are aware of the dichotomy which regulating a material on the basis of its mode of conveyance (i.e., by truck or sewer) appears to present. This situation was discussed in the Agency's February 1986 Report to Congress on the Discharge of Hazardous Wastes to Publicly Owned Treatment Works (Domestic Sewage Study; Pg. 6-85). At present, however, wastes which are shipped to POTWs by truck, rail, or dedicated pipe would not be covered by the §261.4 (a) (1) (ii) exclusion nor would the residues from the treatment of a listed hazardous wastes at that POTW be excluded from regulation.

Cc:        Regional Branch Chiefs
           Regions I-IV and VI-X